

the Romans had strict monogamy in their early history, they had abandoned it before their expansion began to have effect, and monogamy was the rule, in the civilized world, for those who were not rich and great, quite independently of Roman influence, at the time of Christ. The Roman marriage of the time of the empire, especially in the social class which chiefly became Christians, was "free marriage," consisting in *consensus* and delivery of the bride. Richer people added *instrumenta dotalia* as documents to regulate property rights, and as proofs of the marital affection of the groom by virtue of which he meant to make the bride his wife, not his concubine. The marriage of richer people, therefore, had a guarantee which had no place between those who had no occasion for such documents. Life with a woman of good reputation and honorable life created a presumption of marriage. The church enforced this as a conscience marriage, which it was the man's duty to observe and keep.

421. Marriage in Roman law. In the *corpus juris civilis* there are two passages which deserve especial attention. In Dig., I, xxiii, 2, it is said : " Nuptials are a conjunction of a male and a female and a correlation (*consortium*) of their entire lives ; a mutual interchange (*communication* of rights under both human and divine law." In the *Institutes* (sec. I, i, 9) it is said: " Nuptials, or matrimony, is a conjunction of a man and a woman which constitutes a single course of life (*individuum vite consuetudinem*)" These are formulas for very high conceptions of marriage. They would enter easily into the notion of pair marriage at its best. The former formula never was, amongst the Romans, anything but an enthusiastic outburst. Roman man and

wife had no common property; they could make no gifts to each other lest they should despoil each other ; their union, in the time of the empire, was dissoluble almost at pleasure; the father and mother had not the same relation to their children ; the woman, if detected in adultery, was severely punished; the man, in the same case, was not punished at all. The " correlation of their entire lives " was, therefore, very imperfect. The sense of *individuam mtae consuetudinem* is very uncertain. It could not have meant merely the exclusive conjugal relation of each to the other,